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DATE: October 17, 2006

TO: Examiner LA, Nicholas T. **FAX NO.:** 571-273-8300
USPTO GPAU 2617

FROM: Jeffrey G. Toler
Reg. No.: 38,342

RE U.S. App. No.: 10/646,631, filed August 22, 2003

Applicant(s): Theodore Pasquale, et al.

Atty Dkt No.: 1033-T00532

Title: A SYSTEM AND METHOD FOR PRIORITIZED INTERFACE
DESIGN

NO. OF PAGES (including Cover Sheet): 9

MESSAGE:

Attached please find:

- ☒ Pre-Appeal Brief Request for Review (1 pg)
- ☒ Notice of Appeal [in duplicate] (2 pgs)
- ☒ Remarks in Support of the Pre-Appeal Brief Request for Review (5 pgs)

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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1033-T00532	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>10-17-06</u> Signature <u><i>Jeaneaux Jordan</i></u> Typed or printed name <u>Jeaneaux Jordan</u>		Application Number 10/646,631	Filed August 22, 2003
		First Named Inventor Theodore Pasquale, et al.	
		Art Unit 2617	Examiner LA, Nicholas T.
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>38,342</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u><i>Jeffrey G. Toler</i></u> Signature Jeffrey G. Toler Typed or printed name <u>512-327-5515</u> Telephone number <u>10-17-2006</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Theodore Pasquale, et al.

Title: A SYSTEM AND METHOD FOR PRIORITIZED INTERFACE DESIGN

App. No.: 10/646,631

Filed: August 22, 2003

Examiner: LA, Nicholas T.

Group Art Unit: 2617

Customer No.: 60533

Confirmation No.: 8452

Atty. Dkt. No.: 1033-T00532

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REMARKS IN SUPPORT OF
THE PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In response to the Final Office Action mailed September 8, 2006 (hereinafter, "Final Office Action"), Applicants respectfully request review and reconsideration of the Application in view of the following issues.

Applicants respectfully traverse the rejection of claims 1-14, 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. Pub. No. 2004/0043758 ("Sorvari") in view of U.S. Patent No. 6,125,287 ("Cushman") at page 2 of the Final Office Action.

Claim 1 recites a menu comprising a menu locator indicating a location of a current menu within a menu structure. The Final Office Action acknowledges that Sorvari does not disclose or suggest this feature. *Final Office Action*, p. 4. However, the Final Office Action asserts that Cushman, in the Abstract and at column 1, lines 60-66, discloses this feature. *Id.*

The Abstract of Cushman states:

A wireless telephone having a first directory having assigned memory locations with indicators associated therewith. Telephone numbers are stored in the respective memory locations. A speed dialer places a call to one of the telephone numbers stored in the memory locations of first directory upon entry of the indicator associated with the memory location. The wireless phone has a second directory and a sorting unit to order telephone numbers according to parameters associated with the telephone number, the telephone numbers are stored as ordered in the second directory. There are alphanumeric identifiers associated with the numbers stored in the second directory. The wireless phone has a telephone display, and a scroller allows the user to scroll up and down through the numbers stored in the second directory to sequentially view the alphanumeric identifiers associated therewith on the telephone display. The wireless telephone also has a function setting device for setting a plurality of parameters. A marking device selectively marks one or more parameters. A marked parameter directory causes the one or more parameters which have been marked to be displayed. A selector selects a parameter from the directory to thereby change the setting of the selected parameter. *Cushman*, Abstract.

Thus, in contrast to claim 1, the Abstract of Cushman discloses a directory including indicators associated with memory locations, a second directory including alphanumeric identifiers associated with stored telephone numbers, and a marked parameter directory. The Abstract of Cushman does not disclose or suggest a menu locator indicating a location of a current menu within a menu structure, as recited in claim 1.

Moreover, a menu locator indicating a location of a current menu within a menu structure is not disclosed or suggested by Cushman at col. 1, lines 60-66, which states:

These and other objects are accomplished with a wireless telephone having a first directory having assigned memory locations with indicators associated therewith. Telephone numbers are stored in the respective memory locations. A speed dialer places a call to one of the telephone numbers stored in the memory locations of

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first directory upon entry of the indicator associated with the memory location.
Cushman, col. 1, lines 60-66.

Thus, the indicators associated with memory locations, as disclosed by *Cushman*, refer to speed dial number locations. These indicators do not include a menu locator indicating the location of a current menu within a menu structure, as recited in claim 1.

Since neither *Cushman*, nor *Sorvari*, discloses each and every element of claim 1, claim 1 is allowable. Additionally, claims 2-9 are allowable at least in light of their dependence from claim 1.

Claim 10 recites displaying an available menu option in a determined appropriate menu location if a metric-based menu display setting is selected; and displaying the available menu option in a preset menu location if a preset display setting is selected. The Final Office Action asserts that *Sorvari*, at Figures 3, and 9A-9J, and at paragraphs [0053], [0076], [0237]-[0261], discloses these elements of claim 10.

Sorvari at Figure 3 discloses a list of bookmarks on a wireless device display. Figures 9A-9J disclose a recommendation web services menu (900) on a wireless device display. Neither the bookmark list, nor the recommendation web service menu, includes a metric-based menu display setting, a preset display setting or displaying the available menu option in different menu locations depending on the display setting, as recited in claim 10.

Sorvari at paragraph [0053] discloses soft keys to make selections on a wireless device. *Sorvari* at paragraph [0076] discloses downloading a predefined shortcut or bookmark. *Sorvari* at paragraphs [0237]-[0261] discloses a recommendation web services menu displayed by a wireless device. The soft keys, downloaded shortcuts, and recommendation web services menu disclosed by *Sorvari* do not include a metric-based menu display setting, a preset display setting or displaying the available menu option in different menu locations depending on the display setting.

Neither the referenced portions of *Sorvari*, nor the remainder of *Sorvari*, discloses or suggests displaying the available menu option in the determined appropriate menu location if a metric-based menu display setting is selected; and displaying the available menu option in a

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preset menu location if a preset display setting is selected, as recited in claim 10. Additionally, Cushman does not disclose displaying the available menu option in the determined appropriate menu location if a metric-based menu display setting is selected; and displaying the available menu option in a preset menu location if a preset display setting is selected. Thus, claim 10 is allowable. Additionally, claims 11-14 are allowable, at least in light of their dependence from claim 10.

Claim 19 recites a user display preference setting to display a menu including the at least one selected item in the assigned menu position when the user display preference setting includes a selection of a metrics-based display, and to display a menu including the at least one selected item in a preset menu position when the user display preference setting includes a selection of a preset display. The Final Office Action asserts that Sorvari discloses this feature of claim 19 at Figures 3, and 9A-9J, and at paragraphs [0053], [0076], [0237]-[0261]. As discussed previously, Sorvari does not disclose or suggest a metric-based menu display setting, a preset display setting, or displaying the available menu option in different menu locations depending on the display setting. Further, Sorvari does not disclose or suggest displaying a menu including the at least one selected item in the assigned menu position when the user display preference setting includes a selection of a metrics-based display or displaying a menu including the at least one selected item in a preset menu position when the user display preference setting includes a selection of a preset display, as recited in claim 19. Cushman also does not disclose or suggest these elements of claim 19. Thus, claim 19 is allowable. Claim 20 is also allowable at least in light of its dependence from claim 19.

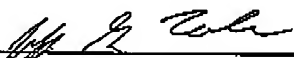
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CONCLUSION

As discussed above, the Final Office Action fails to establish that the cited references and the proposed combinations thereof disclose or suggest the specific combinations of elements recited by the claims. Accordingly, the pending claims are allowable over the cited references. Applicants therefore request reconsideration and withdrawal of all pending rejections.

Respectfully submitted,

10-17-2006
Date


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